

DRAFT 10/19/09

**TOWN OF FREDERICK, COLORADO
RESOLUTION NO. 09-R-**

**A RESOLUTION OF THE TOWN OF FREDERICK, COLORADO,
GRANTING A SPECIAL USE PERMIT FOR THE NELSON 2, 3, 4, 5, 6, 7,
8, 21, 22, 24, 28, 30, AND 41-35 WELLS, LOCATED IN THE N ½ OF
SECTION 35, TOWNSHIP 2 NORTH, RANGE 68 WEST OF THE 6TH
P.M., TOWN OF FREDERICK, COUNTY OF WELD, STATE OF
COLORADO.**

WHEREAS, the Town of Frederick has adopted Article 9 (Oil and Gas Drilling and Production) of the Frederick Land Use Code, 2004 ("Land Use Code"), providing procedures and Town oversight of new drilling operations within or impacting Town property; and

WHEREAS, pursuant to Sections 9.4-9.12 of the Land Use Code, oil and gas operators must seek special use approval and comply with development setback, environmental, geologic hazard mitigation, and other criteria prior to commencing any proposed drilling activities; and

WHEREAS, Kerr-McGee Oil & Gas OnShore LP, 1099 18th St, Denver, CO 80202 (hereinafter "KMG"), has made application in conformance with Article 9 of the *Frederick Land Use Code* for a Special Use Permit for the drilling of thirteen oil and gas wells with associated equipment within the Town of Frederick; and

WHEREAS, following proper notice to the public, a public hearing on the application was held on October 27, 2009, in conformance with Section 4.11. par. 5.a. and Article 9 of the *Frederick Land Use Code*; and

WHEREAS, the Board of Trustees has determined that there is sufficient cause to approve the requested Special Use Permit for said oil and gas well;

BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF FREDERICK, COLORADO, AS FOLLOWS:

Section 1. A Special Use Permit is hereby granted to KMG, for the drilling of thirteen (13) oil and gas well to be identified as the *NELSON 2, 3, 4, 5, 6, 7, 8, 21, 22, 24, 28, 30, and 41-35 wells*, located in the N ½ Section 35, Township 2 North, Range 68 West, 6th P.M.

Section 2. The permit holder is responsible for the drilling, completion, operation, and abandonment of the wells and appurtenant facilities and the restoration of the sites in accordance with the regulations of the Colorado Oil and Gas Commission, with the regulations imposed by Article 9, of the *Frederick Land Use Code*, and with the representations presented in the application and with such conditions as may have been imposed by the Board of Trustees in their approval of this Special Use Permit, all of which are hereby incorporated and made a part of this Resolution.

Section 3. The Special Use Permit expires December 31, 2010, or upon the expiration of the associated State of Colorado Well Permits, whichever occurs first. It may be renewed upon the payment

of the annual inspection fee and a showing that the well has an active State of Colorado Well Permit. It is the responsibility of the holder of this permit to complete an application for renewal not fewer than thirty (30) days before January 1 of each calendar year in which the wells have not been plugged and abandoned and to pay the inspection fee within thirty (30) days after receipt of an invoice from the Town.

Section 4. Any person, firm, corporation or legal entity that commits any act or omission in violation of any provision of Article 9, of the *Frederick Land Use Code*, or of the conditions and requirements of the oil and gas Special Use Permit may be punished by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment for not more than one (1) year, or by both such fine and imprisonment. Each day of such unlawful operation constitutes a separate violation.

Section 5. In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered or used, or any land is or is proposed to be used, in violation of any provision of Article 9, of the *Frederick Land Use Code*, or of the conditions and requirements of the oil and gas Special Use Permit, the Town Attorney, in addition to the other remedies provided by law, ordinance or resolution, may institute an injunction, mandamus, abatement or other appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration or use.

Section 6. Should the Town prevail in any action for legal or equitable relief for a violation of the provisions of Article 9, of the *Frederick Land Use Code*, or of the conditions and requirements of the oil and gas Special Use Permit, in addition to any other penalties or remedies which may be available, the town shall be entitled to recover any damages, costs of action, expert witness fees and reasonable attorney's fees incurred.

Section 7. Effective Date. This resolution shall become effective immediately upon adoption.

Section 8. Repealer. All resolutions, or parts thereof, in conflict with this resolution are hereby repealed, provided that such repealer shall not repeal the repealer clauses of such resolution nor revive any resolution thereby.

Section 9. Certification. The Town Clerk shall certify to the passage of this resolution and make not less than one copy of the adopted resolution available for inspection by the public during regular business hours.

INTRODUCED, READ, PASSED, AND ADOPTED THIS 27TH DAY OF October, 2009

ATTEST:

TOWN OF FREDERICK

By _____
Nanette S. Fornof, Town Clerk

By _____
Eric E. Doering, Mayor